

## 2013 DRAFTING REQUEST

### Bill

Received: **2/27/2014** Received By: **pkahler**  
Wanted: **As time permits** Same as LRB:  
For: **Melissa Sargent (608) 266-0960** By/Representing: **Aaron Collins**  
May Contact: Drafter: **pkahler**  
Subject: **Insurance - health** Addl. Drafters:  
Extra Copies:

Submit via email: **YES**  
Requester's email: **Rep.Sargent@legis.wisconsin.gov**  
Carbon copy (CC) to: **Tamara.Dodge@legis.wisconsin.gov**

---

### Pre Topic:

No specific pre topic given

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### Topic:

Requiring coverage for amino-acid-based elemental formulas

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### Instructions:

See attached

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### Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	pkahler 3/5/2014	scalvin 3/6/2014		_____			
/P1	pkahler 3/13/2014		rschluet 3/6/2014	_____	srose 3/6/2014		State S&L
/1		scalvin 3/13/2014	jfrantze 3/13/2014	_____	srose 3/13/2014	srose 3/13/2014	State S&L

FE Sent For:

①

<END>

INTRO

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/P1	pkahler 3/13/2014		rschluet 3/6/2014	_____	srose 3/6/2014		State S&L
/1		scalvin 3/13/2014	jfrantze 3/13/2014	_____	srose 3/13/2014		State S&L

FE Sent For:

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See attached

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/P1			rschluet 3/6/2014		srose 3/6/2014		State S&L
FE Sent For:	1/1 sac 03/13/2014	1/1 sac 03/13/2014					

<END>

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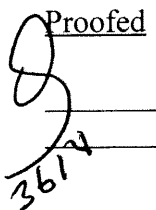
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### Instructions:

See attached

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<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	pkahler	/PI sac 03/06/2014	/PI sac 03/06/2014	 361			

FE Sent For:

<END>

**Kahler, Pam**

---

**From:** Collins, Aaron  
**Sent:** Thursday, February 27, 2014 11:21 AM  
**To:** Kahler, Pam  
**Subject:** drafting request

*amino acid - based formula  
aka  
elemental formula  
or  
aa-b el for*

Hi Pam,

Rep. Sargent would like to have a bill drafted that would require insurance companies to cover elemental formulas. There is a similar law in Texas. Here is the link to their law:

<http://www.statutes.legis.state.tx.us/Docs/IN/htm/IN.1377.htm>

And the relevant text is below. Please let me know if you have any questions. Thanks so much.

Sec. 1377.051. *REQUIRED COVERAGE FOR CERTAIN AMINO ACID-BASED ELEMENTAL FORMULAS.* (a) A health benefit plan must provide coverage as provided by this chapter for amino acid-based elemental formulas, regardless of the formula delivery method, that are used for the diagnosis and treatment of:

(1) immunoglobulin E and non-immunoglobulin E mediated allergies to multiple food proteins;

(2) severe food protein-induced enterocolitis syndrome;

(3) eosinophilic disorders, as evidenced by the results of a biopsy; and

(4) impaired absorption of nutrients caused by disorders affecting the absorptive surface, functional length, and motility of the gastrointestinal tract.

(b) Subject to Subsection (c), the coverage required under Subsection (a) is required if the treating physician has issued a written order stating that the amino acid-based elemental formula is medically necessary for the treatment of an enrollee who is diagnosed with a disease or disorder listed in Subsection (a). The coverage must include coverage of any medically necessary services associated with the administration of the formula.

(c) A health benefit plan must provide the coverage described by Subsection (a) on a basis no less favorable than the basis on which prescription drugs and other medications and related services are covered by the plan, and to the same extent that the plan provides coverage for drugs that are available only on the orders of a physician.

**Aaron Collins**

**Office of Representative Melissa Sargent**

48<sup>th</sup> Assembly District

8 West, State Capitol

608-266-0960

[aaron.collins@legis.wi.gov](mailto:aaron.collins@legis.wi.gov)





State of Wisconsin  
2013 - 2014 LEGISLATURE



LRB-4356

PJK:.....

See  
r in not run

PRELIMINARY DRAFT - NOT

LPS! I changed the hyphens to  
en-dashes where marked.

The one in the relating  
clause is left as a hyphen  
to avoid confusing the  
computer routines.

Y-note  
(in 3-5)

gen cont

- 1 AN ACT relating to: requiring health insurance coverage of  
2 amino-acid-based elemental formulas.

**Analysis by the Legislative Reference Bureau**

This bill requires health insurance policies and plans that cover prescription medication to cover amino-acid-based elemental formulas (formulas) that are used for the diagnosis or treatment of certain specified allergies and gastrointestinal tract disorders, as well as medically necessary services to administer the formulas. The coverage is required only if the physician treating the insured or enrollee has issued a written order stating that the formula is necessary for the treatment of the insured or enrollee and that the insured or enrollee has been diagnosed with one of the specified allergies or gastrointestinal tract disorders.

The coverage requirement applies to both individual and group health insurance policies and plans, including defined network plans and health care plans operated by cooperative associations; to health care plans offered by the state to its employees, including a self-insured plan; and to self-insured health plans of counties, cities, towns, villages, and school districts. The requirement specifically does not apply to limited-scope benefit plans, to policies covering only certain specified diseases, to medicare replacement or supplement policies, or to long-term care insurance policies. The required coverage may not be subject to any limitations, exclusions, or cost-sharing provisions that do not apply generally under the policy or plan to coverage of prescription medication or services for its administration.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

1           **SECTION 1.** 111.91 (2) (n) of the statutes is amended to read:

2           111.91 (2) (n) The provision to employees of the health insurance coverage  
3           required under s. 632.895 (11) to ~~(14)~~, (14) and ~~(16)~~, ~~(16m)~~, and to (17).

History: 1971 c. 270; 1975 c. 39, 224; 1977 c. 196; 1979 c. 221; 1983 a. 27; 1985 a. 42; 1987 a. 27, 287, 331; 1989 a. 13, 31, 323; 1991 a. 269, 289; 1995 a. 27, 289; 1995 a. 302 s. 48; 1997 a. 27, 35, 155, 237; 1999 a. 9, 95, 115, 155; 2001 a. 16, 26; 2003 a. 33; 2007 a. 36; 2009 a. 14, 28, 56, 140, 218, 276, 346; 2011 a. 10, 32; 2011 a. 260 ss. 30, 80.

4           **SECTION 2.** 609.885 of the statutes is created to read:

5           **609.885 Coverage of amino-acid<sup>g=n</sup>based elemental formulas.** Defined  
6           network plans are subject to 632.895 (14m).

7           **SECTION 3.** 632.895<sup>g=n</sup> (14m) of the statutes is created to read:

8           **632.895 (14m) AMINO-ACID<sup>g=n</sup>BASED ELEMENTAL FORMULAS.** (a) Subject to pars. (b)  
9           and (c) and except as provided in par. (d), every disability insurance policy, and every  
10          self-insured health plan of the state or a county, city, village, town, or school district,  
11          that provides coverage of prescription medication shall provide coverage for an  
12          insured or enrollee of all of the following:

13          1. Amino-acid<sup>g=n</sup>based elemental formulas, regardless of how delivered or  
14          administered, that are used for the diagnosis or treatment of any of the following:

15          a. Immunoglobulin<sup>=E<sup>g=n</sup></sup>mediated and non-immunoglobulin<sup>=E<sup>g=n</sup></sup>mediated  
16          allergies to multiple food proteins.

17          b. Severe food-protein<sup>g=n</sup>induced enterocolitis syndrome.

18          c. Eosinophilic disorders, as evidenced by the results of a biopsy.

19          d. Impaired absorption of nutrients caused by disorders affecting the  
20          absorptive surface, functional length, and motility of the gastrointestinal tract.

\*\*\*\*NOTE: Should the “and” before “motility” in the provision above be an “or” instead, or must all three aspects of the gastrointestinal tract be affected in every case?

2. Any medically necessary services associated with the delivery or administration of the formulas under subd. 1.

(b) The coverage under par. (a) is required only if a physician licensed under ch. 448 who is treating the insured or enrollee has issued a written order stating that the amino-acid<sup>er-n</sup>based elemental formula is medically necessary for the treatment of the insured or enrollee and that the insured or enrollee has been diagnosed with a disease or disorder listed in par. (a) 1.

(c) The coverage required under this subsection may not be subject to any limitations, exclusions, or cost-sharing provisions that do not apply generally under the disability insurance policy or self-insured health plan to coverage of prescription medication or services to deliver or administer the medication.

(d) This subsection does not apply to any of the following:

1. A disability insurance policy that covers only certain specified diseases.

2. A health care plan offered by a limited service health organization, as defined in s. 609.01 (3), or by a preferred provider plan, as defined in s. 609.01 (4), that is not a defined network plan, as defined in s. 609.01 (1b).

3. A disability insurance policy, or a self-insured health plan of the state or a county, city, town, village, or school district, that provides only limited-scope dental or vision benefits.

4. A medicare replacement policy, a medicare supplement policy, or a long-term care insurance policy.

#### SECTION 4. Initial applicability.

(1) This act first applies to all of the following:

1 (a) Except as provided in paragraphs (b) and (c), disability insurance policies  
2 that are newly issued or renewed, and governmental self-insured health plans that  
3 are newly established, extended, modified, or renewed, on the effective date of this  
4 paragraph.

5 (b) Disability insurance policies covering employees who are affected by a  
6 collective bargaining agreement containing provisions inconsistent with this act  
7 that are newly issued or renewed on the earlier of the following:

8 1. The day on which the collective bargaining agreement expires.

9 2. The day on which the collective bargaining agreement is extended, modified,  
10 or renewed.

11 (c) Governmental self-insured health plans covering employees who are  
12 affected by a collective bargaining agreement containing provisions inconsistent  
13 with this act that are newly established, extended, modified, or renewed on the  
14 earlier of the following:

15 1. The day on which the collective bargaining agreement expires.

16 2. The day on which the collective bargaining agreement is extended, modified,  
17 or renewed.

18 **SECTION 5. Effective date.**

19 (1) This act takes effect on the first day of the 7th month beginning after  
20 publication.

21 (END)



**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

*- date -*

LRB-4356/Adn <sup>71</sup>

PJK: f:....  
*Sac*

*✓ in not run*

The Texas statute required a written order from a physician. Is this necessary or is a written prescription sufficient?

→ Do you want to include all of the types of policies that I have included and exclude all of the types of policies that I have excluded?

\* Note that under the federal Patient Protection and Affordable Care Act the state must reimburse insured individuals or insurers for the cost of any state-mandated benefits that are in excess of the essential health benefits required to be covered by a qualified health plan, such as a plan offered through a health benefit exchange. Therefore, if coverage of amino-acid-based elemental formulas is not included as an essential health benefit, the state may have to pay for the cost of such coverage under qualified health plans.

Pamela J. Kahler  
Senior Legislative Attorney  
Phone: (608) 266-2682  
E-mail: pam.kahler@legis.wisconsin.gov

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-4356/P1dn  
PJK:sac:rs

March 6, 2014

The Texas statute required a written order from a physician. Is this necessary or is a written prescription sufficient?

Do you want to include all of the types of policies that I have included and exclude all of the types of policies that I have excluded?

Note that under the federal Patient Protection and Affordable Care Act the state must reimburse insured individuals or insurers for the cost of any state-mandated benefits that are in excess of the essential health benefits required to be covered by a qualified health plan, such as a plan offered through a health benefit exchange. Therefore, if coverage of amino-acid-based elemental formulas is not included as an essential health benefit, the state may have to pay for the cost of such coverage under qualified health plans.

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Senior Legislative Attorney  
Phone: (608) 266-2682  
E-mail: [pam.kahler@legis.wisconsin.gov](mailto:pam.kahler@legis.wisconsin.gov)

**Kahler, Pam**

---

**From:** Collins, Aaron  
**Sent:** Thursday, March 13, 2014 9:32 AM  
**To:** Kahler, Pam  
**Subject:** elemental formula bill

Hi Pam,

Regarding LRB-4356/P1:

1. A prescription from a doctor is sufficient to be given the formula.
2. Rep. Sargent is fine with the state paying for the elemental formula prescriptions if it is not included as an essential health benefit.

Could we get a copy back, ready for introduction? Thanks!

***Aaron Collins***

**Office of Representative Melissa Sargent**

48<sup>th</sup> Assembly District

8 West, State Capitol

608-266-0960

[aaron.collins@legis.wi.gov](mailto:aaron.collins@legis.wi.gov)



State of Wisconsin  
2013 - 2014 LEGISLATURE



LRB-4356/1

PJK:sac:rs

*Y m is m*

**PRELIMINARY DRAFT NOT READY FOR INTRODUCTION**

*2013 Bill*

*Draft*

*Gen cat*

- 1 AN ACT *to amend* 111.91 (2) (n); and *to create* 609.885 and 632.895 (14m) of the  
2 statutes; **relating to:** requiring health insurance coverage of  
3 amino-acid-based elemental formulas.

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This bill requires health insurance policies and plans that cover prescription medication to cover amino-acid-based elemental formulas (formulas) that are used for the diagnosis or treatment of certain specified allergies and gastrointestinal tract disorders, as well as medically necessary services to administer the formulas. The coverage is required only if the physician treating the insured or enrollee has issued a written order stating that the formula is necessary for the treatment of the insured or enrollee and that the insured or enrollee has been diagnosed with one of the specified allergies or gastrointestinal tract disorders.

*Insert A*  
The coverage requirement applies to both individual and group health insurance policies and plans, including defined network plans and health care plans operated by cooperative associations; to health care plans offered by the state to its employees, including a self-insured plan; and to self-insured health plans of counties, cities, towns, villages, and school districts. The requirement specifically does not apply to limited-scope benefit plans, to policies covering only certain specified diseases, to medicare replacement or supplement policies, or to long-term care insurance policies. The required coverage may not be subject to any limitations, exclusions, or cost-sharing provisions that do not apply generally under the policy or plan to coverage of prescription medication or services for its administration.



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11 that provides coverage of prescription medication shall provide coverage for an  
12 insured or enrollee of all of the following:

13       1. Amino-acid-based elemental formulas, regardless of how delivered or  
14 administered, that are used for the diagnosis or treatment of any of the following:

15       a. Immunoglobulin-E-mediated and non-immunoglobulin-E-mediated  
16 allergies to multiple food proteins.

17       b. Severe food-protein-induced enterocolitis syndrome.

18       c. Eosinophilic disorders, as evidenced by the results of a biopsy.

19       d. Impaired absorption of nutrients caused by disorders affecting the  
20 absorptive surface, functional length, and motility of the gastrointestinal tract.

\*\*\*\*NOTE: Should the "and" before "motility" in the provision above be an "or" instead, or must all three aspects of the gastrointestinal tract be affected in every case?

1           2. Any medically necessary services associated with the delivery or  
2 administration of the formulas under subd. 1. *Insert 3-4*

3           (b) The coverage under par. (a) is required only if a physician licensed under  
4 ch. 448 *who is treating the insured or enrollee has issued a written order stating that*  
5 *the amino-acid-based elemental formula is medically necessary for the treatment*  
6 *of the insured or enrollee and that the insured or enrollee has been diagnosed with*  
7 *a disease or disorder listed in par. (a) 1. and has*

8           (c) The coverage required under this subsection may not be subject to any  
9 limitations, exclusions, or cost-sharing provisions that do not apply generally under  
10 the disability insurance policy or self-insured health plan to coverage of prescription  
11 medication or services to deliver or administer the medication.

12           (d) This subsection does not apply to any of the following:

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16 a defined network plan, as defined in s. 609.01 (1b).

17           3. A disability insurance policy, or a self-insured health plan of the state or a  
18 county, city, town, village, or school district, that provides only limited-scope dental  
19 or vision benefits.

20           4. A medicare replacement policy, a medicare supplement policy, or a long-term  
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2 paragraph.

3 (b) Disability insurance policies covering employees who are affected by a  
4 collective bargaining agreement containing provisions inconsistent with this act  
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15 or renewed.

16 **SECTION 5. Effective date.**

17 (1) This act takes effect on the first day of the 7th month beginning after  
18 publication.

19 (END)



**2013-2014 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-4356/lins  
PJK:.....

*Wm is m*

**INSERT A**

*not* a physician has diagnosed the insured or enrollee with one of the specified allergies or gastrointestinal tract disorders and has issued a written prescription for the formula for the treatment of the insured or enrollee

**(END OF INSERT A)**

**INSERT 3-4**

- not*
- 1 has diagnosed the insured or enrollee with a disease or disorder listed in par.
  - 2 (a) 1. and has issued a written prescription for the amino-acid-based elemental
  - 3 formula for the treatment of the insured or enrollee.

**(END OF INSERT 3-4)**

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-4356/1dn

PJK:f:....

*Y m is run* *sac*

*- date -*

See how I have modified proposed s. 632.895 (14m) (b) in this version of the draft. Is this okay?

You did not address whether the "and" before "motility" in proposed s. 632.895 (14m) (a) 1. d. should instead be an "or." Therefore, I have not changed it in this version of the draft.

Pamela J. Kahler  
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Phone: (608) 266-2682  
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**DRAFTER'S NOTE  
FROM THE  
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LRB-4356/1dn  
PJK:sac:jf

March 13, 2014

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E-mail: [pam.kahler@legis.wisconsin.gov](mailto:pam.kahler@legis.wisconsin.gov)

**Rose, Stefanie**

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**From:** Collins, Aaron  
**Sent:** Thursday, March 13, 2014 12:21 PM  
**To:** LRB.Legal  
**Subject:** Draft Review: LRB -4356/1 Topic: Requiring coverage for amino-acid-based elemental formulas

Please Jacket LRB -4356/1 for the ASSEMBLY.